



Reprinted
April 11, 2007

ENGROSSED HOUSE BILL No. 1510

DIGEST OF HB 1510 (Updated April 10, 2007 7:54 pm - DI 92)

Citations Affected: IC 4-30; IC 4-32.2; IC 4-33; IC 4-33.5; IC 6-2.5; IC 7.1-3; IC 33-39; IC 35-45; noncode.

Synopsis: Charity gaming. Transfers \$166,666 each month from the build Indiana fund to the enforcement and administration fund. Transfers \$41,666 each month from the build Indiana fund to the state gambling enforcement fund. Makes numerous changes to the laws concerning charity gaming licenses and the participants in charity gaming. Authorizes the gaming commission to issue an annual license permitting a qualified organization to sell pull tabs, punchboards, and tip boards at any time on the premises owned or leased by the qualified organization and regularly used for the activities of the qualified organization. Authorizes an annual charity game night license. Specifies that state educational institutions are qualified organizations. Specifies the conditions for conducting raffles and door prize drawings applicable to a candidate's committee. Makes certain changes concerning manufacturers and distributors of charity gaming supplies. Specifically lists electronic gaming devices among the gambling devices that may not be maintained in a place accessible to the public.
(Continued next page)

Effective: Upon passage; July 1, 2007.

Van Haaften, Whetstone

(SENATE SPONSORS — MERRITT, HERSHMAN, SIMPSON)

January 23, 2007, read first time and referred to Committee on Public Policy.
February 15, 2007, amended, reported — Do Pass.
February 19, 2007, read second time, amended, ordered engrossed.
February 20, 2007, engrossed.
February 22, 2007, read third time, passed. Yeas 74, nays 23.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Commerce, Public Policy and Interstate Cooperation.
March 20, 2007, Pursuant to Senate Rule 65(b), reassigned to Committee on Rules and Legislative Procedure.
April 3, 2007, amended, reported favorably — Do Pass.
April 10, 2007, read second time, amended, ordered engrossed.

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Authorizes the revocation of a lottery retailer's contract with the lottery commission, a charity gaming license, a retail merchant's certificate, a tobacco sales certificate, or an alcoholic beverage permit for certain criminal violations. Provides that a second unrelated conviction for professional gambling or promoting professional gambling is a Class C felony rather than a Class D felony. Establishes the office of the special prosecuting attorney for gambling enforcement. Permits the special prosecuting attorney to prosecute certain gambling crimes: (1) if the special prosecuting attorney certifies certain information about the crime to a county prosecuting attorney and the county prosecuting attorney: (A) is disqualified from investigating or bringing a criminal prosecution in the matter addressed in the certification; (B) does not file an information or seek an indictment within ninety (90) days after the date on which the special prosecuting attorney certified the information to the county prosecuting attorney; or (C) refers the case back to the special prosecuting attorney; and (2) if the special prosecuting attorney finds that there is probable cause to believe that a person identified in the certification has violated a criminal statute identified in the certification. Establishes the state gambling enforcement fund to pay the operating expenses of the office of the special prosecuting attorney for gambling enforcement.

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April 11, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1510

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-30-9-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 5. A contract executed by the
3 commission under this chapter must specify the reasons for a suspension
4 or termination of the contract by the commission, including the
5 following:

- 6 (1) Commission of a violation of **this article, IC 35-45-5-3,**
7 **IC 35-45-5-4,** or **a** rule adopted under this article.
- 8 (2) Failure to accurately account for lottery tickets, revenues, or
9 prizes as required by the commission.
- 10 (3) Commission of a fraud, deceit, or misrepresentation.
- 11 (4) Insufficient sale of tickets.
- 12 (5) Conduct prejudicial to public confidence in the lottery.
- 13 (6) A material change in a matter considered by the commission
14 executing the contract with the retailer.

15 SECTION 2. IC 4-30-17-3.5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.5. (a) Before the
17 twenty-fifth day of ~~the~~ **each** month, the auditor of state shall ~~transfer~~

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1 **make the following transfers** from the build Indiana fund: ~~to:~~

2 (1) To the state general fund motor vehicle excise tax replacement
3 account, nineteen million six hundred eighty-four thousand three
4 hundred seventy dollars (\$19,684,370). ~~per month;~~

5 **(2) To the enforcement and administration fund established**
6 **under IC 7.1-4-10, one hundred sixty-six thousand six hundred**
7 **sixty-six dollars (\$166,666).**

8 **(3) To the state gambling enforcement fund established under**
9 **IC 4-33.5-4, forty-one thousand six hundred sixty-six dollars**
10 **(\$41,666).**

11 (b) This subsection applies only if insufficient money is available in
12 the build Indiana fund to make the distributions to the state general fund
13 motor vehicle excise tax replacement account that are required under
14 subsection (a). Before the twenty-fifth day of each month, the auditor of
15 state shall transfer from the state general fund to the state general fund
16 motor vehicle excise tax replacement account the difference between:

17 (1) the amount that subsection (a) requires the auditor of state to
18 distribute from the build Indiana fund to the state general fund
19 motor vehicle excise tax replacement account; and

20 (2) the amount that is available for distribution from the build
21 Indiana fund to the state general fund motor vehicle excise tax
22 replacement account.

23 The transfers required under this subsection are annually appropriated
24 from the state general fund.

25 SECTION 3. IC 4-32.2-1-1, AS ADDED BY P.L.91-2006, SECTION
26 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
27 2007]: Sec. 1. (a) This article applies only to a qualified organization.

28 (b) This article applies only to **the following approved gambling**
29 **events conducted as fundraising activities by qualified**
30 **organizations:**

31 (1) Bingo events, charity game nights, door prize events, raffle
32 events, festivals, and other gaming events approved by the
33 commission. ~~and~~

34 (2) The sale of pull tabs, punchboards, and tip boards:

35 (A) at bingo events, charity game nights, door prize events,
36 raffle events, and festivals conducted by qualified
37 organizations; or

38 (B) at any time on the premises owned or leased by a qualified
39 organization and regularly used for the activities of the
40 qualified organization.

41 This article does not apply to any other sale of pull tabs,
42 punchboards, and tip boards.

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(c) This article does not apply to a promotion offer subject to IC 24-8.

SECTION 4. IC 4-32.2-1-3, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A bingo event, charity game night, door prize drawing, or raffle, **festival event, or other charity gambling event licensed under IC 4-32.2-4-16** is not allowed in Indiana unless it is conducted by a qualified organization in accordance with this article.

SECTION 5. IC 4-32.2-2-15, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. "Door prize" means a prize awarded to a person based solely upon the person's **paid** attendance at ~~an~~ **a charity fundraising** event or the purchase of a ticket to attend ~~an~~ **a charity fundraising** event.

SECTION 6. IC 4-32.2-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Full-time employee" means an individual who:**

- (1) is and has been employed by a particular qualified organization for at least ninety (90) consecutive days as of the date of the qualified organization's allowable event; and
- (2) works at least an average of thirty-two (32) hours per week or one thousand six hundred sixty-two (1,662) hours per year for the qualified organization in a capacity that is primarily unrelated to the qualified organization's charity gaming operations.

SECTION 7. IC 4-32.2-2-18.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.7. "Key person" means any:**

- (1) officer;
- (2) director;
- (3) executive;
- (4) employee;
- (5) trustee;
- (6) substantial owner;
- (7) independent owner; or
- (8) agent;

of a business entity that has the power to exercise management or operating authority over the business entity or its affiliates.

SECTION 8. IC 4-32.2-2-20.5, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20.5. "Member" means any of the following:

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(1) An individual entitled to membership in a qualified organization under the bylaws, articles of incorporation, charter, or rules of the qualified organization.

(2) A member of the qualified organization's auxiliary.

(3) In the case of a qualified organization that is a **public or** nonpublic school (as defined in IC 20-18-2-12), ~~either~~ **any** of the following:

(A) A parent of a child enrolled in the school.

(B) A member of the school's parent organization.

(C) A member of the school's alumni association.

(D) An employee of the school.

(E) An officer of the school.

(F) A student enrolled in the school.

(4) A member of a qualified organization's board of directors or board of trustees.

SECTION 9. IC 4-32.2-2-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21.5. "PPT license" refers to a license issued to a qualified organization under IC 4-32.2-4-16.5.**

SECTION 10. IC 4-32.2-2-24, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) "Qualified organization" means:

(1) a bona fide religious, educational, senior citizens, veterans, or civic organization operating in Indiana that:

(A) operates without profit to the organization's members;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) has been continuously in existence in Indiana for at least five (5) years or is affiliated with a parent organization that has been in existence in Indiana for at least five (5) years; ~~or~~

(2) a bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of the Internal Revenue Code); **or**

(3) a state educational institution (as defined in IC 20-12-0.5-1).

(b) For purposes of IC 4-32.2-4-3, a "qualified organization" includes the following:

(1) A hospital licensed under IC 16-21.

(2) A health facility licensed under IC 16-28.

(3) A psychiatric facility licensed under IC 12-25.

(4) An organization defined in subsection (a).

(c) For purposes of IC 4-32.2-4-10, a "qualified organization" includes a bona fide business organization.

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SECTION 11. IC 4-32.2-2-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27.5. "Substantial owner" means:

(1) a person holding at least a five percent (5%) ownership interest; or

(2) an institutional investor holding at least a fifteen percent (15%) ownership interest;

in a business entity.

SECTION 12. IC 4-32.2-2-30, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. "Worker" means an individual who helps or participates in any manner in ~~preparing for~~, conducting or assisting in conducting ~~cleaning up after~~, or taking any other action in connection with an allowable event under this article.

SECTION 13. IC 4-32.2-3-3, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The commission shall adopt rules under IC 4-22-2 for the following purposes:

(1) Administering this article.

(2) Establishing the conditions under which charity gaming in Indiana may be conducted.

(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of charity gaming.

(4) Establishing rules concerning inspection of qualified organizations and the review of the licenses necessary to conduct charity gaming.

(5) Imposing penalties for noncriminal violations of this article.

(6) Establishing standards for independent audits conducted under IC 4-32.2-5-5.

(b) The commission may adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

SECTION 14. IC 4-32.2-3-4, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The commission has the sole authority to license entities under this article to sell, distribute, or manufacture ~~the~~ following:

~~(+) Bingo cards.~~

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(2) Bingo boards.

(3) Bingo sheets.

(4) Bingo pads.

(5) Pull tabs.

(6) Punchboards.

(7) Tip boards.

(8) Any other supplies, devices, or equipment designed to be used in allowable events designated by rule of the commission.

a licensed supply.

(b) Qualified organizations must obtain ~~the materials described in subsection (a)~~ **licensed supplies** only from an entity licensed by the commission.

(c) The commission may not limit the number of qualified entities licensed under subsection (a).

(d) The commission may deny a license to an applicant for a license to sell, manufacture, or distribute licensed supplies if the commission determines that at least one (1) of the following applies with respect to the applicant:

(1) The applicant has:

(A) violated a local ordinance, a state or federal statute, or an administrative rule or regulation and the violation would cause the commission to determine that the applicant, a key person, or a substantial owner of the applicant is not of good moral character or reputation; or

(B) committed any other act that would negatively impact the integrity of charity gaming in Indiana.

(2) The applicant has engaged in fraud, deceit, or misrepresentation.

(3) The applicant has failed to provide information required by this article or a rule adopted under this article.

SECTION 15. IC 4-32.2-3-5, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. The commission shall charge appropriate fees to the following:

(1) An applicant for a license to conduct an allowable event.

(2) An applicant seeking a license to distribute ~~bingo supplies, pull tabs, punchboards, or tip boards:~~ **a licensed supply.**

(3) An applicant seeking a license to manufacture ~~bingo supplies, pull tabs, punchboards, or tip boards:~~ **a licensed supply.**

SECTION 16. IC 4-32.2-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.5. The commission may deny a license to an**

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organization if the commission determines that at least one (1) of the following applies with respect to the organization:

(1) The organization has:

(A) violated a local ordinance, a state or federal statute, or an administrative rule or regulation and the violation would cause the commission to determine that the applicant, a key person, or a substantial owner of the applicant is not of good moral character or reputation; or

(B) committed any other act that would negatively impact the integrity of charity gaming in Indiana.

(2) The organization has engaged in fraud, deceit, or misrepresentation.

(3) The organization has failed to provide information required by this article or a rule adopted under this article.

(4) The organization has failed to provide sufficient information to enable the commission to determine that the organization is a qualified organization.

SECTION 17. IC 4-32.2-4-3, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A qualified organization is not required to obtain a license from the commission if the value of all prizes awarded at the bingo event, charity game night, raffle event, or door prize event, **festival event, or other event licensed under section 16 of this chapter**, including prizes from pull tabs, punchboards, and tip boards, does not exceed one thousand dollars (\$1,000) for a single event and not more than three thousand dollars (\$3,000) during a calendar year.

(b) A qualified organization ~~described in subsection (a)~~ that plans to hold ~~a bingo~~ **an allowable** event ~~described in subsection (a)~~ more than one (1) time a year shall send an annual written notice to the commission informing the commission of the following:

(1) The estimated frequency of the planned ~~bingo~~ **allowable** events.

(2) The location or locations where the qualified organization plans to hold the ~~bingo~~ **allowable** events.

(3) The estimated ~~amount of revenue expected to be generated by~~ **value of all prizes awarded at each bingo allowable event**.

(c) The notice required under subsection (b) must be filed before the earlier of the following:

(1) March 1 of each year.

(2) One (1) week before the qualified organization holds the first ~~bingo~~ **allowable** event of the year.

(d) A qualified organization **that conducts an allowable event**

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described in subsection (a) shall maintain accurate records of all financial transactions of ~~an the event. conducted under this section.~~ The commission may inspect records kept in compliance with this section.

SECTION 18. IC 4-32.2-4-5, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The commission may issue a bingo license to a qualified organization if:

- (1) the provisions of this section are satisfied; and
- (2) the qualified organization:

- (A) submits an application; and

- (B) pays a fee set by the commission under IC 4-32.2-6.

(b) The commission may hold a public hearing to obtain input on the proposed issuance of an annual bingo license to an applicant that has never held an annual bingo license under this article.

(c) The first time that a qualified organization applies for an annual bingo license, the ~~commission~~ **qualified organization** shall publish notice that the application has been filed **by publication at least two (2) times, seven (7) days apart, as follows:**

- (1) **In one (1) newspaper in the county where the qualified organization is located.**

- (2) **In one (1) newspaper in the county where the allowable event will be conducted.**

~~(d)~~ The notification ~~must be in accordance with IC 5-14-1.5-5 and required by subsection (c)~~ must contain the following:

- (1) The name of the qualified organization and the fact that it has applied for an annual bingo license.
- (2) The location where the bingo events will be held.
- (3) The names of the operator and officers of the qualified organization.
- (4) A statement that any person can protest the proposed issuance of the annual bingo license.
- (5) A statement that the commission shall hold a public hearing if ten (10) written and signed protest letters are received by the commission.
- (6) The address of the commission where correspondence concerning the application may be sent.

~~(d)~~ **(e)** If the commission receives at least ten (10) protest letters, the commission shall hold a public hearing in accordance with IC 5-14-1.5. The commission shall issue a license or deny the application not later than sixty (60) days after the date of the public hearing.

~~(e)~~ **(f)** A license issued under this section:

- (1) may authorize the qualified organization to conduct bingo

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events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted bingo events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

~~(f)~~ (g) Notwithstanding subsection ~~(e)(4)~~; **(f)(4)**, the commission shall hold a public hearing for the reissuance of an annual bingo license if **either of the following conditions are met:**

(1) An applicant has been cited for a violation of law or a rule of the commission. ~~or~~

~~(2) The commission finds, based upon investigation of at least three (3) written and signed complaints alleging a violation of law or a rule of the commission in connection with the bingo license, that one (1) or more of the alleged violations:~~

~~(A) has occurred;~~

~~(B) is a type of violation that would allow the commission to cite the applicant for a violation of a provision of this article or of a rule of the commission; and~~

~~(C) has not been corrected after notice has been given by the commission.~~

(2) The commission receives at least ten (10) protest letters concerning the qualified organization's bingo operation.

~~(g) If the commission is required to hold a public hearing on an application for a reissuance of an annual bingo license, it shall comply with the same procedures required under this section for notice and for conducting the hearing.~~

~~(h) The commission may deny a license if, after a public hearing, the commission determines that the applicant:~~

~~(1) has violated a local ordinance; or~~

~~(2) has engaged in fraud, deceit, or misrepresentation.~~

SECTION 19. IC 4-32.2-4-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) Subject to subsection (h), the commission may issue an annual charity game night license to a qualified organization if:

(1) the provisions of this section are satisfied; and

(2) the qualified organization:

(A) submits an application; and

(B) pays a fee set by the commission under IC 4-32.2-6.

(b) The commission may hold a public hearing to obtain input on

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the proposed issuance of an annual charity game night license to an applicant that has never held an annual charity game night license under this article.

(c) The first time that a qualified organization applies for an annual charity game night license, the qualified organization shall publish notice that the application has been filed by publication at least two (2) times, seven (7) days apart, as follows:

(1) In one (1) newspaper in the county where the qualified organization is located.

(2) In one (1) newspaper in the county where the allowable events will be conducted.

(d) The notification required by subsection (c) must contain the following:

(1) The name of the qualified organization and the fact that it has applied for an annual charity game night license.

(2) The location where the charity game night events will be held.

(3) The names of the operator and officers of the qualified organization.

(4) A statement that any person can protest the proposed issuance of the annual charity game night license.

(5) A statement that the commission shall hold a public hearing if ten (10) written and signed protest letters are received by the commission.

(6) The address of the commission where correspondence concerning the application may be sent.

(e) If the commission receives at least ten (10) protest letters, the commission shall hold a public hearing in accordance with IC 5-14-1.5. The commission shall issue a license or deny the application not later than sixty (60) days after the date of the public hearing.

(f) A license issued under this section:

(1) may authorize the qualified organization to conduct charity game night events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted charity game night events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

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(g) Notwithstanding subsection (f)(4), the commission shall hold a public hearing for the reissuance of an annual charity game night license if either of the following conditions is met:

(1) An applicant has been cited for a violation of law or a rule of the commission.

(2) The commission receives at least ten (10) protest letters concerning the qualified organization's charity game night operation.

(h) Notwithstanding IC 4-32.2-2-24, this section applies only to:

(1) a bona fide civic organization; or

(2) a bona fide veterans organization;

that has been continuously in existence in Indiana for ten (10) years. A qualified organization that is not described in this subsection may not apply for an annual charity game night license under this section.

SECTION 20. IC 4-32.2-4-8, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. ~~(a)~~ The commission may issue a raffle license to a qualified organization upon the organization's submission of an application and payment of a fee determined under IC 4-32.2-6. The license must:

(1) authorize the qualified organization to conduct a raffle event at only one (1) time and location; and

(2) state the date, beginning and ending times, and location of the raffle event.

~~(b) A qualified organization, by rule of the commission, may be excused from the requirement of obtaining a license to conduct a raffle event if the total market value of the prize or prizes to be awarded at the raffle event does not exceed one thousand dollars (\$1,000).~~

SECTION 21. IC 4-32.2-4-9, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. ~~(a)~~ The ~~commissioner~~ **commission** may issue an annual raffle license to a qualified organization upon the organization's submission of an application and payment of a fee determined under IC 4-32.2-6. The license must

~~(1) authorize the qualified organization to conduct not more than five (5) raffle events in the calendar year in which the license is issued; and~~

~~(2) state the date, beginning and ending times, and location of each raffle event conducted by the qualified organization in the calendar year.~~

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(1) the provisions of this section are satisfied; and

(2) the qualified organization:

(A) submits an application; and

(B) pays a fee set by the commission under IC 4-32.2-6.

(b) The application for an annual raffle prize license must contain the following:

(1) The name of the qualified organization.

(2) The location where the raffle events will be held.

(3) The names of the operator and officers of the qualified organization.

(c) A license issued under this section:

(1) may authorize the qualified organization to conduct raffle events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted raffle events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

SECTION 22. IC 4-32.2-4-10, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. ~~(a)~~ The commission may issue a door prize license to a qualified organization upon the organization's submission of an application and payment of a fee determined under IC 4-32.2-6. The license must:

(1) authorize the qualified organization to conduct a door prize event at only one (1) time and location; and

(2) state the date, beginning and ending times, and location of the door prize event.

~~(b) A qualified organization, by rule of the commission, may be excused from the requirement of obtaining a license to conduct a door prize event if the total market value of the prize or prizes to be awarded at the door prize event does not exceed one thousand dollars (\$1,000).~~

SECTION 23. IC 4-32.2-4-11, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) The commission may issue an annual door prize license to a qualified organization if:

(1) the provisions of this section are satisfied; and

(2) the qualified organization:

(A) submits an application; and

(B) pays a fee set by the commission under IC 4-32.2-6.

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(b) The application for an annual door prize license must contain the following:

- (1) The name of the qualified organization.
- (2) The location where the door prize events will be held.
- (3) The names of the operator and officers of the qualified organization.

(c) A license issued under this section:

- (1) may authorize the qualified organization to conduct door prize events on more than one (1) occasion during a period of one (1) year;
- (2) must state the locations of the permitted door prize events;
- (3) must state the expiration date of the license; and
- (4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

(d) ~~The commission may reject an application for an annual door prize license if, after a public hearing, the commission determines that the applicant:~~

- ~~(1) has violated a local ordinance; or~~
- ~~(2) has engaged in fraud; deceit; or misrepresentation.~~

SECTION 24. IC 4-32.2-4-12, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The commission may issue a festival license to a qualified organization upon the organization's submission of an application and payment of a fee determined under IC 4-32.2-6. The license must authorize the qualified organization to conduct bingo events, charity game nights, ~~one (1) raffle event; events, gambling events licensed under section 16 of this chapter,~~ and door prize events and to sell pull tabs, punchboards, and tip boards. The license must state the location and the dates, not exceeding four (4) consecutive days, on which these activities may be conducted.

(b) **Except as provided in IC 4-32.2-5-6(c),** a qualified organization may not conduct more than one (1) festival each year. ~~at which bingo events; charity game nights; raffle events; and door prize events; are conducted and pull tabs, punchboards, and tip boards are sold.~~

(c) The raffle event authorized by a festival license is not subject to the prize limits set forth in this chapter. Bingo events, charity game nights, and door prize events conducted at a festival are subject to the prize limits set forth in this chapter.

SECTION 25. IC 4-32.2-4-13, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) A bingo license or special bingo license

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may also authorize a qualified organization to conduct **raffle events and** door prize drawings and sell pull tabs, punchboards, and tip boards at the bingo event.

(b) A charity game night license may also authorize a qualified organization to:

(1) conduct **raffle events and** door prize drawings; and

(2) sell pull tabs, punchboards, and tip boards;
at the charity game night.

(c) A raffle license **or an annual raffle license** may also authorize a qualified organization to conduct door prize drawings and sell pull tabs, punchboards, and tip boards at the raffle event.

(d) A door prize license **or an annual door prize license** may also authorize a qualified organization to **conduct a raffle event and to** sell pull tabs, punchboards, and tip boards at the door prize event.

SECTION 26. IC 4-32.2-4-14, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. A qualified organization may hold more than one (1) license at a time. ~~However, a qualified organization with multiple licenses may not hold a bingo event and raffle at the same event or at the same time and place unless, by express determination, the commission allows a qualified organization to do so. The commission may allow a qualified organization to conduct only one (1) event each year at which both bingo and a raffle may be held.~~

SECTION 27. IC 4-32.2-4-16, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) This section applies to a gambling event that is described in neither:

(1) section 1(1) through 1(6) of this chapter; nor

(2) IC 4-32.2-2-12(b).

(b) The commission may issue a **single event license or an annual event** license to conduct a gambling event approved by the commission to a qualified organization upon the organization's submission of an application and payment of a fee determined under IC 4-32.2-6. ~~The~~

(c) A **single event** license must:

(1) authorize the qualified organization to conduct the gambling event at only one (1) time and location; and

(2) state the date, beginning and ending times, and location of the gambling event.

(d) An **annual event** license:

(1) **must authorize the qualified organization to conduct the events on more than one (1) occasion during a period of one (1) year;**

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- (2) must state the locations of the permitted events;
- (3) must state the expiration date of the license; and
- (4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

(c) (e) The commission may impose any condition upon a qualified organization that is issued a license to conduct a gambling event under this section.

SECTION 28. IC 4-32.2-4-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16.5. (a) The commission may issue an annual PPT license to a qualified organization upon the organization's submission of an application and payment of a fee determined under IC 4-32.2-6.

(b) A license issued under this section authorizes a qualified organization to sell pull tabs, punchboards, and tip boards at any time on the premises owned or leased by the qualified organization and regularly used for the activities of the qualified organization.

(c) A license issued under this section is not required for the sale of pull tabs, punchboards, and tip boards at another allowable event as permitted under section 13 of this chapter.

(d) The application for an annual PPT license must contain the following:

- (1) The name of the qualified organization.
- (2) The location where the qualified organization will sell pull tabs, punchboards, and tip boards.
- (3) The names of the operator and the officers of the qualified organization.

SECTION 29. IC 4-32.2-4-18, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) With respect to any action authorized by this section, a candidate's committee (as defined in IC 3-5-2-7) is considered a bona fide political organization.

(b) A candidate's committee may apply for a license under section 8 of this chapter to conduct a raffle event. A candidate's committee may not also conduct a door prize drawing at the raffle event but is prohibited from conducting any other kind of allowable event.

(c) The following are subject to this ~~article~~ chapter and IC 4-32.2-6:

- (1) A candidate's committee that applies for a license under section 8 of this chapter.

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(2) A raffle event **or door prize drawing** conducted by a candidate's committee.

(d) The members of a candidate's committee may conduct an event under this section without meeting the requirements of this article concerning the membership of a qualified organization. A candidate's committee licensed under this section must remain in good standing with the election division or the county election board having jurisdiction over the committee.

SECTION 30. IC 4-32.2-5-3, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) All net proceeds from an allowable event and related activities may be used only for the lawful purposes of the qualified organization.

(b) To determine the net proceeds from an allowable event, a qualified organization shall subtract the following from the gross receipts received from the allowable event:

(1) An amount equal to the total value of the prizes, including door prizes, awarded at the allowable event.

(2) The sum of the purchase prices paid for licensed supplies dispensed at the allowable event.

(3) An amount equal to the qualified organization's license fees attributable to the allowable event.

(4) An amount equal to the advertising expenses incurred by the qualified organization to promote the allowable event.

(5) An amount not to exceed two hundred dollars (\$200) per day for rent paid for facilities leased for an allowable event.

SECTION 31. IC 4-32.2-5-5, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. **(a)** A qualified organization shall maintain accurate records of all financial aspects of an allowable event under this article. A qualified organization shall make accurate reports of all financial aspects of an allowable event to the commission within the time established by the commission. The commission may prescribe forms for this purpose. The commission shall, by rule, require a qualified organization to deposit funds received from an allowable event in a separate and segregated account set up for that purpose. All expenses of the qualified organization with respect to an allowable event shall be paid from the separate account.

(b) The commission may require a qualified organization to submit any records maintained under this section for an independent audit by a certified public accountant selected by the commission. A qualified organization must bear the cost of any

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audit required under this section.

SECTION 32. IC 4-32.2-5-6, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) A qualified organization may not conduct more than three (3) allowable events during a calendar week and not more than one (1) allowable event each day.

(b) Except as provided in IC 4-32.2-4-12 **and IC 4-32.2-4-16.5**, allowable events may not be held on more than two (2) consecutive days.

(c) A ~~bona fide civic~~ **qualified** organization may conduct one (1) additional ~~allowable festival~~ event during each six (6) months of a calendar year.

SECTION 33. IC 4-32.2-5-8, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) ~~Except as provided in subsection (d)~~; If facilities are leased for an allowable event, the rent may not

~~(1) be based in whole or in part on the revenue generated from the event. or~~

~~(2) exceed two hundred dollars (\$200) per day.~~

(b) A facility may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

~~(d) If a qualified organization conducts an allowable event in conjunction with or at the same facility where the qualified organization or its affiliate is having a convention or other meeting of its membership, facility rent for the allowable event may exceed two hundred dollars (\$200) per day. A qualified organization may conduct only one (1) allowable event under this subsection in a calendar year.~~

SECTION 34. IC 4-32.2-5-12, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Except as provided in subsection (b), an operator or a worker **who is not a full-time employee** may not receive remuneration for:

~~(1) preparing for;~~

~~(2) (1) conducting; or~~

~~(3) (2) assisting in conducting;~~

~~(4) cleaning up after; or~~

~~(5) taking any other action in connection with;~~
an allowable event.

(b) A qualified organization that conducts an allowable event may:

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(1) provide meals for the operators and workers during the allowable event; and

(2) provide recognition dinners and social events for the operators and workers;

if the value of the meals and social events does not constitute a significant inducement to participate in the conduct of the allowable event.

SECTION 35. IC 4-32.2-5-16, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Except as provided in subsection (b), a worker must be a member in good standing of a qualified organization that is conducting an allowable event for at least thirty (30) days at the time of the allowable event.

(b) A qualified organization may allow an individual who is not a member of the qualified organization to participate in an allowable event as a worker if **the individual is a full-time employee of the qualified organization that is conducting the allowable event or if:**

(1) the individual is a member of another qualified organization; and

(2) the individual's participation is approved by the commission.

A qualified organization may apply to the commission on a form prescribed by the commission for approval of the participation of a nonmember under this subsection. A qualified organization may share the proceeds of an allowable event with the qualified organization in which a worker participating in the allowable event under this subsection is a member. The tasks that will be performed by an individual participating in an allowable event under this subsection and the amounts shared with the individual's qualified organization must be described in the application and approved by the commission.

(c) For purposes of:

(1) the licensing requirements of this article; and

(2) section 9 of this chapter;

a qualified organization that receives a share of the proceeds of an allowable event described in subsection (b) is not considered to be conducting an allowable event.

SECTION 36. IC 4-32.2-5-22, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. ~~If an employee or officer of a manufacturer or distributor is a member of a bona fide civic or bona fide religious organization that holds a charity gaming license, the employee's or officer's membership in the organization may not be construed as an affiliation with the organization's charity gaming operations. An~~

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employee, officer, or owner of a manufacturer or distributor is prohibited from participating in or affiliating in any way with the charity gaming operations of a qualified organization of which the employee, officer, or owner is a member.

SECTION 37. IC 4-32.2-8-1, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The commission may suspend or revoke the license of or levy a civil penalty against a qualified organization, a manufacturer, a distributor, or an individual under this article for any of the following:

(1) Violation of:

(A) a provision of this article, ~~or of IC 35-45-5-3, IC 35-45-5-4,~~ or a rule of the commission; or

(B) any other local ordinance, state or federal statute, or administrative rule or regulation that would cause the commission to determine that the person is not of good moral character or reputation.

(2) Failure to accurately account for

(A) bingo cards;

(B) bingo boards;

(C) bingo sheets;

(D) bingo pads;

(E) pull tabs;

(F) punchboards; or

(G) tip boards.

a licensed supply.

(3) Failure to accurately account for sales proceeds from an event or activity licensed or permitted under this article.

(4) Commission of a fraud, deceit, or misrepresentation.

(5) Conduct prejudicial to public confidence in the commission.

(b) If a violation is of a continuing nature, the commission may impose a civil penalty upon a licensee or an individual for each day the violation continues.

(c) For purposes of subsection (a), a finding that a person has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence.

SECTION 38. IC 4-32.2-9-2, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. An employee of the commission may do any of the following:

(1) Investigate an alleged violation of this article.

(2) Arrest an alleged violator of this article. ~~or of a rule adopted by~~

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~~the commission.~~

(3) Enter upon the following premises for the performance of the employee's lawful duties:

(A) A location where a bingo event, charity game night, **festival event, raffle, or door prize drawing, or other charity gambling event licensed under IC 4-32.2-4-16** is being conducted.

(B) A location where pull tabs, tip boards, or punchboards are being purchased, sold, manufactured, printed, or stored.

(4) Take necessary equipment from the premises for further investigation.

(5) Obtain full access to all financial records of the entity upon request.

(6) If there is a reason to believe that a violation has occurred, search and inspect the premises where the violation is alleged to have occurred or is occurring. A search under this subdivision may not be conducted unless a warrant has first been obtained by the executive director. A contract entered into by the executive director may not include a provision allowing for warrantless searches. A warrant may be obtained in the county where the search will be conducted or in Marion County.

(7) Seize or take possession of:

- (A) papers;
- (B) records;
- (C) tickets;
- (D) currency; or
- (E) other items;

related to an alleged violation.

SECTION 39. IC 4-32.2-9-3, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The commission shall conduct investigations necessary to ensure the security and integrity of the operation of games of chance under this article. The commission may conduct investigations of the following:

- (1) Licensed qualified organizations.
- (2) Applicants for licenses issued under this article.
- ~~(3) Licensed manufacturers and distributors.~~
- (3) Entities that sell, manufacture, or distribute licensed supplies.**
- (4) Employees of the commission under this article.
- (5) Applicants for contracts or employment with the commission under this article.
- (6) Individuals engaged in conducting allowable events.**

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(b) The commission may require persons subject to an investigation under subsection (a) to provide information, including fingerprints, that is:

- (1) required by the commission to carry out the investigation; or
- (2) otherwise needed to facilitate access to state and criminal history information.

SECTION 40. IC 4-32.2-9-6, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This section applies only to products sold in Indiana.

(b) If a licensed manufacturer or distributor destroys, discontinues, or otherwise renders unusable

- ~~(1) bingo supplies;~~
- ~~(2) punchboards; or~~
- ~~(3) tip boards;~~

a licensed supply, the manufacturer or distributor shall provide the commission with a written list of the items destroyed, discontinued, or rendered otherwise unusable.

(c) The list required under subsection (b) must contain the following information concerning the items destroyed, discontinued, or rendered otherwise unusable:

- (1) The quantity.
- (2) A description.
- (3) The serial numbers.
- (4) The date the items were destroyed, discontinued, or rendered otherwise unusable.

(d) Notwithstanding subsection (b), this section does not apply to a product considered defective by the manufacturer or distributor.

SECTION 41. IC 4-32.2-9-8, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. A manufacturer or distributor of ~~supplies, devices, or equipment described in IC 4-32.2-3-4(a)~~ **a licensed supply** to be used in charity gaming in Indiana must file a quarterly report listing the manufacturer's or distributor's sales of the ~~supplies, devices, and equipment~~ **licensed supply**.

SECTION 42. IC 4-33-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. The commission shall appoint the special prosecuting attorney for gambling enforcement and oversee the office of the special prosecuting attorney for gambling enforcement established under IC 4-33.5-2-1.**

SECTION 43. IC 4-33.5 IS ADDED TO THE INDIANA CODE AS

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A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **ARTICLE 33.5. SPECIAL PROSECUTING ATTORNEY FOR GAMBLING ENFORCEMENT**

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Commission" refers to the Indiana gaming commission established under IC 4-33-3.

Sec. 3. "Office" refers to the office of the special prosecuting attorney for gambling enforcement established by IC 4-33.5-2-1.

Sec. 4. "Special prosecuting attorney" refers to the special prosecuting attorney for gambling enforcement described in IC 4-33.5-2. The term does not include a special prosecutor appointed under IC 33-39-1-6 or IC 4-2-7-7.

Chapter 2. Office of the Special Prosecuting Attorney for Gambling Enforcement

Sec. 1. There is established the office of the special prosecuting attorney for gambling enforcement. The office of the special prosecuting attorney for gambling enforcement consists of the special prosecuting attorney, who is the director of the office, and an additional staff of deputy special prosecuting attorneys, investigators, auditors, and clerical employees appointed by the special prosecuting attorney as necessary to carry out the duties of the special prosecuting attorney.

Sec. 2. The special prosecuting attorney shall do the following:

- (1) Prosecute crimes under IC 35-45-5 (gambling) and under IC 35-45-6-2 (corrupt business influence), if the racketeering activity involves promoting professional gambling (IC 35-45-5-4), and initiate, supervise, and coordinate investigations relating to crimes under IC 35-45-5 (gambling) and under IC 35-45-6-2 (corrupt business influence), if the racketeering activity involves promoting professional gambling (IC 35-45-5-4).
- (2) Recommend policies and carry out other activities designed to deter, detect, and eradicate illegal gambling.
- (3) Adopt rules under IC 4-22-2 to implement this chapter.
- (4) Recommend legislation to the commission and general assembly to strengthen laws relating to gambling.
- (5) Annually submit a report to the legislative council detailing the special prosecuting attorney's activities. The report must be in an electronic format under IC 5-14-6.
- (6) Prepare interpretive and educational materials and

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1 programs.

2 Sec. 3. (a) Except as provided in subsections (b) and (c), the
3 special prosecuting attorney has concurrent jurisdiction with the
4 prosecuting attorney of a county in the investigation and
5 prosecution of a crime under IC 35-45-5 (gambling) and under
6 IC 35-45-6-2 (corrupt business influence), if the racketeering
7 activity involves promoting professional gambling (IC 35-45-5-4).

8 (b) If the special prosecuting attorney discovers evidence of the
9 commission of a crime under IC 35-45-5 (gambling), or under
10 IC 35-45-6-2 (corrupt business influence), and the racketeering
11 activity involves promoting professional gambling (IC 35-45-5-4),
12 the special prosecuting attorney may certify to the prosecuting
13 attorney of the county in which the crime appears to have been
14 committed the following information:

15 (1) The identity of any person who may be involved in the
16 criminal activity.

17 (2) The specific criminal statute that the special prosecuting
18 attorney believes has been violated.

19 In addition, the special prosecuting attorney shall share with the
20 county prosecuting attorney any relevant evidence. If the county
21 prosecuting attorney decides to prosecute the crime described in the
22 information certified to the county prosecuting attorney, or any
23 other related crimes, the special prosecuting attorney shall
24 cooperate with the county prosecuting attorney in the investigation
25 and prosecution of the case.

26 (c) If:

27 (1) the county prosecuting attorney to whom the special
28 prosecuting attorney issues a certification under subsection

29 (b):

30 (A) is disqualified from investigating or bringing a criminal
31 prosecution in the matter addressed in the certification;

32 (B) does not file an information or seek an indictment not
33 later than ninety (90) days after the date on which the
34 special prosecuting attorney certified the information to the
35 county prosecuting attorney; or

36 (C) refers the case back to the special prosecuting attorney;
37 and

38 (2) the special prosecuting attorney finds that there is probable
39 cause to believe that a person identified in the certification
40 under subsection (b)(1) has violated a criminal statute
41 identified in the certification under subsection (b)(2);

42 the special prosecuting attorney may prosecute the case.

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1 **Sec. 4. To carry out the duties described in sections 2 and 3 of this**
 2 **chapter, the special prosecuting attorney has the following powers:**

3 **(1) As part of an investigation or prosecution, the special**
 4 **prosecuting attorney may:**

5 **(A) administer oaths;**

6 **(B) examine witnesses under oath;**

7 **(C) issue subpoenas and subpoenas duces tecum; and**

8 **(D) examine the records, reports, audits, reviews, papers,**
 9 **books, recommendations, contracts, correspondence, or any**
 10 **other documents maintained by any person.**

11 **(2) The special prosecuting attorney may apply to a circuit or**
 12 **superior court for an order holding an individual in contempt**
 13 **of court if the individual refuses to give sworn testimony under**
 14 **a subpoena issued by the special prosecuting attorney or**
 15 **otherwise disobeys a subpoena or subpoena duces tecum issued**
 16 **by the special prosecuting attorney.**

17 **(3) In matters within the authority of the special prosecuting**
 18 **attorney under this chapter, the special prosecuting attorney**
 19 **has the same powers as the prosecuting attorney of a county.**
 20 **However, the special prosecuting attorney may exercise these**
 21 **powers only in the investigation and prosecution of an act that**
 22 **is a crime under IC 35-45-5 (gambling) or under IC 35-45-6-2**
 23 **(corrupt business influence), if the racketeering activity**
 24 **involves promoting professional gambling (IC 35-45-5-4).**

25 **Chapter 3. Appointment and Eligibility**

26 **Sec. 1. The commission shall appoint the special prosecuting**
 27 **attorney. The special prosecuting attorney serves at the pleasure of**
 28 **the commission.**

29 **Sec. 2. The special prosecuting attorney and any deputy special**
 30 **prosecuting attorneys must be attorneys licensed to practice law in**
 31 **Indiana.**

32 **Sec. 3. The special prosecuting attorney is entitled to receive**
 33 **compensation set by the commission and approved by the budget**
 34 **agency. However, the special prosecuting attorney's compensation**
 35 **may not exceed the minimum compensation paid to a full-time**
 36 **prosecuting attorney under IC 33-39-6.**

37 **Sec. 4. Subject to the approval of the budget agency, the special**
 38 **prosecuting attorney shall fix the salary of all other employees of the**
 39 **office of the special prosecuting attorney.**

40 **Chapter 4. State Gambling Enforcement Fund**

41 **Sec. 1. The state gambling enforcement fund is established.**

42 **Sec. 2. The fund consists of:**

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(1) money transferred to the fund under IC 4-30-17-3.5; and

(2) appropriations from the general assembly.

Sec. 3. The commission shall administer the fund.

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. Money in the fund must be used by the commission to pay the operating expenses of the office.

SECTION 44. IC 6-2.5-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The department may, for good cause, revoke a certificate issued under section 1, 3, or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection.

(b) The department shall revoke a certificate issued under section 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

(1) file the returns required by IC 6-2.5-6-1; or

(2) report the collection of any state gross retail or use tax on the returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and

(2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

(1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and

(2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate holder's failure to comply with IC 6-9.

(e) The department shall revoke or suspend a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

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(1) the certificate holder owes taxes, penalties, fines, interest, or costs due under IC 6-1.1 that remain unpaid at least sixty (60) days after the due date under IC 6-1.1; and

(2) the treasurer of the county to which the taxes are due requests the department to revoke or suspend the certificate.

(f) The department shall reinstate a certificate suspended under subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid or the county treasurer requests the department to reinstate the certificate because an agreement for the payment of taxes and any penalties due under IC 6-1.1 has been reached to the satisfaction of the county treasurer.

(g) The department shall revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if the department finds in a public hearing by a preponderance of the evidence that the certificate holder has violated IC 35-45-5-3 or IC 35-45-5-4.

SECTION 45. IC 7.1-3-18.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

(b) Before enforcing the imposition of a civil penalty or suspending **or revoking** a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension to the certificate holder.

(c) Subject to subsection (b), the commission may revoke the certificate of a person if the commission finds by a preponderance of the evidence that the person has violated IC 35-45-5-3 or IC 35-45-5-4.

SECTION 46. IC 7.1-3-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. ~~Fine, Suspension, and Revocation. General:~~ The commission may fine, suspend, or revoke the permit, or fine and suspend or revoke, the permit of a permittee for the violation of a provision of this title, ~~or~~ of a rule or regulation of the commission, **or of IC 35-45-5-3 or IC 35-45-5-4.** The commission may fine a permittee for each day the violation continues if the violation is of a continuing nature. **A finding that a permittee has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence.**

SECTION 47. IC 7.1-3-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. ~~Revocation of~~

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~~Permits: General.~~ The commission shall revoke a permit of any type only on account of the violation of, or refusal to comply with, a provision of this title or of a rule or regulation of the commission, **or on account of a violation of IC 35-45-5-3 or IC 35-45-5-4. A finding that a permittee has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence.**

SECTION 48. IC 33-39-1-6, AS AMENDED BY P.L.222-2005, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a) This section does not apply to the special prosecuting attorney for gambling enforcement appointed to the office established by IC 4-33.5-2-1.**

~~(a)~~ **(b)** Special prosecutors may be appointed under this section or in accordance with IC 4-2-7-7.

~~(b)~~ **(c)** A circuit or superior court judge:

(1) shall appoint a special prosecutor if:

(A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition requesting the appointment of a special prosecutor; and

(B) the prosecuting attorney agrees that a special prosecutor is needed;

(2) may appoint a special prosecutor if:

(A) a person files a verified petition requesting the appointment of a special prosecutor; and

(B) the court, after:

(i) notice is given to the prosecuting attorney; and

(ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard;

finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;

(3) may appoint a special prosecutor if:

(A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and

(B) the court finds that the appointment is necessary to avoid the appearance of impropriety; and

(4) may appoint a special prosecutor if:

(A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and

(B) the court finds that the appointment of a special prosecutor

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is in the best interests of justice.

~~(c)~~ (d) Each person appointed to serve as a special prosecutor:

(1) must consent to the appointment; and

(2) must be:

(A) the prosecuting attorney or a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or

(B) except as provided in subsection ~~(d)~~, (e), a senior prosecuting attorney.

~~(d)~~ (e) A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court finds that an appointment under this subsection would not create the appearance of impropriety.

~~(e)~~ (f) A person appointed to serve as a special prosecutor has the same powers as the prosecuting attorney of the county. However, the appointing judge shall limit scope of the special prosecutor's duties to include only the investigation or prosecution of a particular case or particular grand jury investigation.

~~(f)~~ (g) The court shall establish the length of the special prosecutor's term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-41-1-24), the court shall order the special prosecutor to file a report of the investigation with the court at the conclusion of the investigation. The report is a public record.

~~(g)~~ (h) If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and

(2) may not exceed:

(A) a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit; and

(B) travel expenses and reasonable accommodation expenses actually incurred.

~~(h)~~ (i) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and

(2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually

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incurred.

(j) The combination of:

(1) the compensation paid to a senior prosecuting attorney under this chapter; and

(2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.

(k) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one hundred (100) calendar days in total during a calendar year.

SECTION 49. IC 35-45-5-1, AS AMENDED BY P.L.70-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~As used in~~ **The definitions in this section apply throughout this chapter.**

(b) **"Electronic gaming device" means any electromechanical device, electrical device, or machine that satisfies the following requirements:**

(1) **The device is available to play or operate upon payment of consideration.**

(2) **The device:**

(A) **by reason of the skill of the operator;**

(B) **by application of the element of chance; or**

(C) **due to both (A) and (B);**

may deliver or entitle the person playing or operating the device to receive premiums, merchandise, tokens, redeemable game credits, or anything of value other than unredeemable free games regardless of whether the payoff is made automatically from the device or in any other manner.

The term does not include a device played for amusement that rewards a player exclusively with a toy, a novelty, or a ticket or coupon redeemable for a toy or a novelty that has a wholesale value of not more than the lesser of ten (10) times the amount charged to play the amusement device one (1) time or five dollars (\$5).

(c) **"Gain" means the direct realization of winnings.**

(d) **"Gambling" means risking money or other property for gain, contingent in whole or in part upon lot, chance, or the operation of a gambling device; but it does not include participating in:**

(1) **bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries;**

or

(2) **bona fide business transactions that are valid under the law of**

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contracts.

(e) "Gambling device" means:

- (1) a mechanism by the operation of which a right to money or other property may be credited, in return for consideration, as the result of the operation of an element of chance;
- (2) a mechanism that, when operated for a consideration, does not return the same value or property for the same consideration upon each operation;
- (3) a mechanism, furniture, fixture, construction, or installation designed primarily for use in connection with professional gambling;
- (4) a policy ticket or wheel; or
- (5) a subassembly or essential part designed or intended for use in connection with such a device, mechanism, furniture, fixture, construction, or installation.

In the application of this definition, an immediate and unrecorded right to replay mechanically conferred on players of pinball machines and similar amusement devices is presumed to be without value.

(f) "Gambling information" means:

- (1) a communication with respect to a wager made in the course of professional gambling; or
- (2) information intended to be used for professional gambling.

(g) "Interactive computer service" means an Internet service, an information service, a system, or an access software provider that provides or enables computer access to a computer served by multiple users. The term includes the following:

- (1) A service or system that provides access or is an intermediary to the Internet.
- (2) A system operated or services offered by a library, school, state educational institution (as defined in IC 20-12-0.5-1), or private college or university.

(h) "Operator" means a person who owns, maintains, or operates an Internet site that is used for interactive gambling.

(i) "Profit" means a realized or unrealized benefit (other than a gain) and includes benefits from proprietorship or management and unequal advantage in a series of transactions.

(j) **For purposes of this chapter:**

- (1) a card game; or
- (2) an electronic version of a card game;

is a game of chance and may not be considered a bona fide contest of skill.

SECTION 50. IC 35-45-5-3, AS AMENDED BY P.L.70-2005,

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SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2007]: Sec. 3. (a) A person who knowingly or intentionally:

- (1) engages in pool-selling;
- (2) engages in bookmaking;
- (3) maintains, in a place accessible to the public:
 - (A) slot machines;
 - (B) one-ball machines or variants thereof;
 - (C) **an electronic gaming device;**
 - (D) pinball machines that award anything other than an immediate and unrecorded right of replay;
 - (E) roulette wheels;
 - (F) dice tables; or
 - (G) money or merchandise pushcards, punchboards, jars, or spindles;
- (4) conducts lotteries or policy or numbers games or sells chances therein;
- (5) conducts any banking or percentage games played with cards, dice, or counters, or accepts any fixed share of the stakes therein; or
- (6) accepts, or offers to accept, for profit, money, or other property risked in gambling;

commits professional gambling, a Class D felony. **However, the offense is a Class C felony if the person has a prior unrelated conviction under this subsection.**

(b) An operator who knowingly or intentionally uses the Internet to:

- (1) engage in pool-selling:
 - (A) in Indiana; or
 - (B) in a transaction directly involving a person located in Indiana;
- (2) engage in bookmaking:
 - (A) in Indiana; or
 - (B) in a transaction directly involving a person located in Indiana;
- (3) maintain, on an Internet site accessible to residents of Indiana, the equivalent of:
 - (A) slot machines;
 - (B) one-ball machines or variants of one-ball machines;
 - (C) pinball machines that award anything other than an immediate and unrecorded right of replay;
 - (D) roulette wheels;
 - (E) dice tables; or
 - (F) money or merchandise pushcards, punchboards, jars, or

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- 1 spindles;
 2 (4) conduct lotteries or policy or numbers games or sell chances in
 3 lotteries or policy or numbers games:
 4 (A) in Indiana; or
 5 (B) in a transaction directly involving a person located in
 6 Indiana;
 7 (5) conduct any banking or percentage games played with the
 8 computer equivalent of cards, dice, or counters, or accept any fixed
 9 share of the stakes in those games:
 10 (A) in Indiana; or
 11 (B) in a transaction directly involving a person located in
 12 Indiana; or
 13 (6) accept, or offer to accept, for profit, money or other property
 14 risked in gambling:
 15 (A) in Indiana; or
 16 (B) in a transaction directly involving a person located in
 17 Indiana;
 18 commits professional gambling over the Internet, a Class D felony.
 19 SECTION 51. IC 35-45-5-4 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided
 21 in subsection (b), a person who:
 22 (1) knowingly or intentionally owns, manufactures, possesses,
 23 buys, sells, rents, leases, repairs, or transports a gambling device,
 24 or offers or solicits an interest in a gambling device;
 25 (2) before a race, game, contest, or event on which gambling may
 26 be conducted, knowingly or intentionally transmits or receives
 27 gambling information by any means, or knowingly or intentionally
 28 installs or maintains equipment for the transmission or receipt of
 29 gambling information; or
 30 (3) having control over the use of a place, knowingly or
 31 intentionally permits another person to use the place for
 32 professional gambling;
 33 commits promoting professional gambling, a Class D felony. **However,**
 34 **the offense is a Class C felony if the person has a prior unrelated**
 35 **conviction under this section.**
 36 (b) Subsection (a)(1) does not apply to a boat manufacturer who:
 37 (1) transports or possesses a gambling device solely for the
 38 purpose of installing that device in a boat that is to be sold and
 39 transported to a buyer; and
 40 (2) does not display the gambling device to the general public or
 41 make the device available for use in Indiana.
 42 (c) When a public utility is notified by a law enforcement agency

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1 acting within its jurisdiction that any service, facility, or equipment
 2 furnished by it is being used or will be used to violate this section, it
 3 shall discontinue or refuse to furnish that service, facility, or equipment,
 4 and no damages, penalty, or forfeiture, civil or criminal, may be found
 5 against a public utility for an act done in compliance with such a notice.
 6 This subsection does not prejudice the right of a person affected by it to
 7 secure an appropriate determination, as otherwise provided by law, that
 8 the service, facility, or equipment should not be discontinued or refused,
 9 or should be restored.

10 SECTION 52. IC 4-32.2-5-7 IS REPEALED [EFFECTIVE JULY 1,
 11 2007].

12 SECTION 53. [EFFECTIVE UPON PASSAGE] (a) **The**
 13 **amendment of IC 35-45-5-1 by this act is not intended to result in**
 14 **any substantive change in the law.**

15 (b) **This act does not affect any:**

16 (1) **violations committed; or**

17 (2) **proceedings begun;**

18 **before the effective date of this act. Those offenses and proceedings**
 19 **continue and shall be imposed and enforced under prior law as if**
 20 **this act had not been enacted.**

21 SECTION 54. [EFFECTIVE JULY 1, 2007] **IC 35-45-5-3 and**
 22 **IC 35-45-5-4, both as amended by this act, apply only to crimes**
 23 **committed after June 30, 2007.**

24 SECTION 55. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1510, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 17, after "organization" insert ".".

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 3. IC 4-32.2-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Full-time employee" means an individual who:**

- (1) is and has been employed by a particular qualified organization for at least ninety (90) consecutive days as of the date of the qualified organization's allowable event; and**
- (2) works at least an average of thirty-two (32) hours per week or one thousand six hundred sixty-two (1,662) hours per year for the qualified organization."**

Page 6, line 5, delete "newspapers" and insert **"one (1) newspaper"**.

Page 6, line 6, delete "located, as provided in IC 5-3-1-6." and insert **"located."**

Page 6, line 7, delete "daily".

Page 6, line 39, after "if" insert **"either of"**.

Page 7, line 12, delete "(h)".

Page 7, line 12, strike "If the commission is required to hold a public hearing on an".

Page 7, strike lines 13 through 15.

Page 7, delete lines 28 through 42.

Page 8, delete lines 1 through 3, begin a new paragraph and insert:

"(b) The commission may hold a public hearing to obtain input on the proposed issuance of an annual charity game night license to an applicant that has never held an annual charity game night license under this article.

(c) The first time that a qualified organization applies for an annual bingo license, the qualified organization shall publish notice that the application has been filed by publication at least two (2) times, seven (7) days apart, as follows:

- (1) In one (1) newspaper in the county where the qualified organization is located.**
- (2) In one (1) newspaper in the county where the allowable events will be conducted.**

(d) The notification required by subsection (c) must contain the

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following:

- (1) The name of the qualified organization and the fact that it has applied for an annual charity game night license.
- (2) The location where the charity game night events will be held.
- (3) The names of the operator and officers of the qualified organization.
- (4) A statement that any person can protest the proposed issuance of the annual charity game night license.
- (5) A statement that the commission shall hold a public hearing if ten (10) written and signed protest letters are received by the commission.
- (6) The address of the commission where correspondence concerning the application may be sent.

(e) If the commission receives at least ten (10) protest letters, the commission shall hold a public hearing in accordance with IC 5-14-1.5. The commission shall issue a license or deny the application not later than sixty (60) days after the date of the public hearing.

(f) A license issued under this section:

- (1) may authorize the qualified organization to conduct charity game night events on more than one (1) occasion during a period of one (1) year;
- (2) must state the locations of the permitted charity game night events;
- (3) must state the expiration date of the license; and
- (4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

(g) Notwithstanding subsection (f)(4), the commission shall hold a public hearing for the reissuance of an annual charity game night license if either of the following conditions is met:

- (1) An applicant has been cited for a violation of law or a rule of the commission.
- (2) The commission receives at least ten (10) protest letters concerning the qualified organization's charity game night operation."

Page 10, line 21, delete "A" and insert "Except as provided in IC 4-32.2-5-6(c), a".

Page 10, line 22, after "year" insert ".".

Page 10, line 22, strike "at which bingo events, charity game nights,

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raffle".

Page 10, line 23, strike "events,".

Page 10, line 23, strike "door prize events,".

Page 10, line 23, delete "or other gambling events licensed".

Page 10, line 24, delete "under section 16 of this chapter".

Page 10, line 24, strike "are conducted and pull tabs,".

Page 10, strike line 25.

Page 10, line 33, after "conduct" insert **"raffle events and"**.

Page 11, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 20. IC 4-32.2-4-14, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. A qualified organization may hold more than one (1) license at a time. However, a qualified organization with multiple licenses may not hold a bingo event and raffle at the same event or at the same time and place unless, by express determination, the commission allows a qualified organization to do so: The commission may allow a qualified organization to conduct only one (1) event each year at which both bingo and a raffle may be held:".

Page 12, between lines 3 and 4, begin a new paragraph and insert:

"(d) The application for an annual PPT license must contain the following:

- (1) The name of the qualified organization.**
- (2) The location where the qualified organization will sell pull tabs, punchboards, and tip boards.**
- (3) The names of the operator and the officers of the qualified organization."**

Page 12, between lines 24 and 25, begin a new paragraph and insert:
"SECTION 23. IC 4-32.2-5-3, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) All net proceeds from an allowable event and related activities may be used only for the lawful purposes of the qualified organization.

(b) To determine the net proceeds from an allowable event, a qualified organization shall subtract the following from the gross receipts received from the allowable event:

- (1) An amount equal to the total value of the prizes, including door prizes, awarded at the allowable event.**
- (2) The sum of the purchase prices paid for licensed supplies dispensed at the allowable event.**
- (3) An amount equal to the qualified organization's license fees attributable to the allowable event.**
- (4) An amount equal to the advertising expenses incurred by the**

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qualified organization to promote the allowable event.

(5) An amount not to exceed two hundred dollars (\$200) per day for rent paid for facilities leased for an allowable event."

Page 12, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 24. IC 4-32.2-5-8, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) ~~Except as provided in subsection (d);~~ If facilities are leased for an allowable event, the rent may not

~~(1) be based in whole or in part on the revenue generated from the event. or~~

~~(2) exceed two hundred dollars (\$200) per day.~~

(b) A facility may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

~~(d) If a qualified organization conducts an allowable event in conjunction with or at the same facility where the qualified organization or its affiliate is having a convention or other meeting of its membership; facility rent for the allowable event may exceed two hundred dollars (\$200) per day. A qualified organization may conduct only one (1) allowable event under this subsection in a calendar year.~~

SECTION 25. IC 4-32.2-5-12, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Except as provided in subsection (b), an operator or a worker **who is not a full-time employee** may not receive remuneration for:

~~(1) preparing for;~~

~~(2) (1) conducting; or~~

~~(3) (2) assisting in conducting;~~

~~(4) cleaning up after; or~~

~~(5) taking any other action in connection with;~~

an allowable event.

(b) A qualified organization that conducts an allowable event may:

(1) provide meals for the operators and workers during the allowable event; and

(2) provide recognition dinners and social events for the operators and workers;

if the value of the meals and social events does not constitute a significant inducement to participate in the conduct of the allowable event.

SECTION 26. IC 4-32.2-5-16, AS ADDED BY P.L.91-2006,

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SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Except as provided in subsection (b), a worker must be a member in good standing of a qualified organization that is conducting an allowable event for at least thirty (30) days at the time of the allowable event.

(b) A qualified organization may allow an individual who is not a member of the qualified organization to participate in an allowable event as a worker if **the individual is a full-time employee of the qualified organization that is conducting the allowable event or if:**

(1) the individual is a member of another qualified organization; and

(2) the individual's participation is approved by the commission.

A qualified organization may apply to the commission on a form prescribed by the commission for approval of the participation of a nonmember under this subsection. A qualified organization may share the proceeds of an allowable event with the qualified organization in which a worker participating in the allowable event under this subsection is a member. The tasks that will be performed by an individual participating in an allowable event under this subsection and the amounts shared with the individual's qualified organization must be described in the application and approved by the commission.

(c) For purposes of:

(1) the licensing requirements of this article; and

(2) section 9 of this chapter;

a qualified organization that receives a share of the proceeds of an allowable event described in subsection (b) is not considered to be conducting an allowable event."

Page 15, line 21, delete "8" and insert "8".

Page 15, after line 25, begin a new paragraph and insert:

"SECTION 30. IC 4-32.2-5-7 IS REPEALED [EFFECTIVE JULY 1, 2007]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1510 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 8, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1510 be amended to read as follows:

Page 8, line 1, delete "bingo" and insert "**charity game night**".

(Reference is to HB 1510 as printed February 16, 2007.)

VAN HAAFTEN

SENATE MOTION

Madam President: I move that Senator Riegsecker be removed as sponsor of Engrossed House Bill 1510 and that Senator Merritt be substituted therefor.

RIEGSECKER

Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Engrossed House Bill 1510, currently assigned to the Committee on Commerce, Public Policy and Interstate Cooperation, be reassigned to the Committee on Rules and Legislative Procedure.

LONG

SENATE MOTION

Madam President: I move that Senator Simpson be removed as second sponsor of Engrossed House Bill 1510.

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SENATE MOTION

Madam President: I move that Senator Hershman be added as second sponsor and Senator Simpson be added as third sponsor of Engrossed House Bill 1510.

MERRITT

 COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred House Bill No. 1510, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. A contract executed by the commission under this chapter must specify the reasons for a suspension or termination of the contract by the commission, including the following:

- (1) Commission of a violation **of this article, IC 35-45-5-3, IC 35-45-5-4, or a rule adopted under this article.**
- (2) Failure to accurately account for lottery tickets, revenues, or prizes as required by the commission.
- (3) Commission of a fraud, deceit, or misrepresentation.
- (4) Insufficient sale of tickets.
- (5) Conduct prejudicial to public confidence in the lottery.
- (6) A material change in a matter considered by the commission executing the contract with the retailer.

SECTION 2. IC 4-30-17-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.5. (a) Before the twenty-fifth day of ~~the~~ **each** month, the auditor of state shall ~~transfer~~ **make the following transfers** from the build Indiana fund: ~~to:~~

- (1) To the state general fund motor vehicle excise tax replacement account, nineteen million six hundred eighty-four thousand three hundred seventy dollars (\$19,684,370). ~~per month;~~
- (2) **To the enforcement and administration fund established under IC 7.1-4-10, one hundred sixty-six thousand six hundred sixty-six dollars (\$166,666).**

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(3) To the state gambling enforcement fund established under IC 4-33.5-4, forty-one thousand six hundred sixty-six dollars (\$41,666).

(b) This subsection applies only if insufficient money is available in the build Indiana fund to make the distributions to the state general fund motor vehicle excise tax replacement account that are required under subsection (a). Before the twenty-fifth day of each month, the auditor of state shall transfer from the state general fund to the state general fund motor vehicle excise tax replacement account the difference between:

- (1) the amount that subsection (a) requires the auditor of state to distribute from the build Indiana fund to the state general fund motor vehicle excise tax replacement account; and
- (2) the amount that is available for distribution from the build Indiana fund to the state general fund motor vehicle excise tax replacement account.

The transfers required under this subsection are annually appropriated from the state general fund."

Page 2, line 26, delete "." and insert **"in a capacity that is primarily unrelated to the qualified organization's charity gaming operations."**

Page 2, between lines 26 and 27, begin a new paragraph and insert:
"SECTION 7. IC 4-32.2-2-18.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18.7. "Key person" means any:

- (1) officer;**
- (2) director;**
- (3) executive;**
- (4) employee;**
- (5) trustee;**
- (6) substantial owner;**
- (7) independent owner; or**
- (8) agent;**

of a business entity that has the power to exercise management or operating authority over the business entity or its affiliates."

Page 3, between lines 30 and 31, begin a new paragraph and insert:
"SECTION 11. IC 4-32.2-2-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27.5. "Substantial owner" means:

- (1) a person holding at least a five percent (5%) ownership interest; or**
- (2) an institutional investor holding at least a fifteen percent**



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**(15%) ownership interest;
in a business entity."**

Page 3, between lines 36 and 37, begin a new paragraph and insert:
"SECTION 13. IC 4-32.2-3-3, AS ADDED BY P.L.91-2006,
SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2007]: Sec. 3. (a) The commission shall adopt rules under
IC 4-22-2 for the following purposes:

- (1) Administering this article.
- (2) Establishing the conditions under which charity gaming in
Indiana may be conducted.
- (3) Providing for the prevention of practices detrimental to the
public interest and providing for the best interests of charity
gaming.
- (4) Establishing rules concerning inspection of qualified
organizations and the review of the licenses necessary to conduct
charity gaming.
- (5) Imposing penalties for noncriminal violations of this article.
- (6) Establishing standards for independent audits conducted
under IC 4-32.2-5-5.**

(b) The commission may adopt emergency rules under
IC 4-22-2-37.1 if the commission determines that:

- (1) the need for a rule is so immediate and substantial that
rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36
are inadequate to address the need; and
- (2) an emergency rule is likely to address the need."

Page 4, line 21, delete ";" and insert **"and the violation would
cause the commission to determine that the applicant, a key person,
or a substantial owner of the applicant is not of good moral
character or reputation;"**.

Page 4, line 22, delete "harmful to the best interests" and insert
**"that would negatively impact the integrity of charity gaming in
Indiana."**

Page 4, delete line 23.

Page 5, line 3, delete ";" and insert **"and the violation would cause
the commission to determine that the applicant, a key person, or a
substantial owner of the applicant is not of good moral character
or reputation;"**.

Page 5, line 4, delete "harmful to the best interests" and insert **"that
would negatively impact the integrity of charity gaming in
Indiana."**

Page 5, delete line 5.

Page 7, line 32, delete "The" and insert **"Subject to subsection (h),**

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the".

Page 9, between lines 4 and 5, begin a new paragraph and insert:

"(h) Notwithstanding IC 4-32.2-2-24, this section applies only to:

(1) a bona fide civic organization; or

(2) a bona fide veterans organization;

that has been continuously in existence in Indiana for ten (10) years. A qualified organization that is not described in this subsection may not apply for an annual charity game night license under this section."

Page 13, line 28, after "drawing" insert **"at the raffle event"**.

Page 14, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 31. IC 4-32.2-5-5, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A qualified organization shall maintain accurate records of all financial aspects of an allowable event under this article. A qualified organization shall make accurate reports of all financial aspects of an allowable event to the commission within the time established by the commission. The commission may prescribe forms for this purpose. The commission shall, by rule, require a qualified organization to deposit funds received from an allowable event in a separate and segregated account set up for that purpose. All expenses of the qualified organization with respect to an allowable event shall be paid from the separate account.

(b) The commission may require a qualified organization to submit any records maintained under this section for an independent audit by a certified public accountant selected by the commission. A qualified organization must bear the cost of any audit required under this section."

Page 14, line 27, strike "allowable" and insert **"festival"**.

Page 16, delete lines 10 through 41, begin a new paragraph and insert:

"SECTION 36. IC 4-32.2-5-22, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. If an employee or officer of a manufacturer or distributor is a member of a bona fide civic or bona fide religious organization that holds a charity gaming license; the employee's or officer's membership in the organization may not be construed as an affiliation with the organization's charity gaming operations. An employee, officer, or owner of a manufacturer or distributor is prohibited from participating in or affiliating in any way with the charity gaming operations of a qualified organization of which the employee, officer, or owner is a member.

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SECTION 37. IC 4-32.2-8-1, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The commission may suspend or revoke the license of or levy a civil penalty against a qualified organization, **a manufacturer, a distributor**, or an individual under this article for any of the following:

(1) Violation of:

(A) a provision of this article, ~~or of IC 35-45-5-3, IC 35-45-5-4~~, or a rule of the commission; **or**

(B) **any other local ordinance, state or federal statute, or administrative rule or regulation that would cause the commission to determine that the person is not of good moral character or reputation.**

(2) Failure to accurately account for

~~(A) bingo cards;~~

~~(B) bingo boards;~~

~~(C) bingo sheets;~~

~~(D) bingo pads;~~

~~(E) pull tabs;~~

~~(F) punchboards; or~~

~~(G) tip boards.~~

a licensed supply.

(3) Failure to accurately account for sales proceeds from an event or activity licensed or permitted under this article.

(4) Commission of a fraud, deceit, or misrepresentation.

(5) Conduct prejudicial to public confidence in the commission.

(b) If a violation is of a continuing nature, the commission may impose a civil penalty upon a licensee or an individual for each day the violation continues.

(c) For purposes of subsection (a), a finding that a person has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence."

Page 18, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 42. IC 4-33-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. The commission shall appoint the special prosecuting attorney for gambling enforcement and oversee the office of the special prosecuting attorney for gambling enforcement established under IC 4-33.5-2-1.**

SECTION 43. IC 4-33.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **ARTICLE 33.5. SPECIAL PROSECUTING ATTORNEY**



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FOR GAMBLING ENFORCEMENT**Chapter 1. Definitions**

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Commission" refers to the Indiana gaming commission established under IC 4-33-3.

Sec. 3. "Office" refers to the office of the special prosecuting attorney for gambling enforcement established by IC 4-33.5-2-1.

Sec. 4. "Special prosecuting attorney" refers to the special prosecuting attorney for gambling enforcement described in IC 4-33.5-2. The term does not include a special prosecutor appointed under IC 33-39-1-6 or IC 4-2-7-7.

Chapter 2. Office of the Special Prosecuting Attorney for Gambling Enforcement

Sec. 1. There is established the office of the special prosecuting attorney for gambling enforcement. The office of the special prosecuting attorney for gambling enforcement consists of the special prosecuting attorney, who is the director of the office, and an additional staff of deputy special prosecuting attorneys, investigators, auditors, and clerical employees appointed by the special prosecuting attorney as necessary to carry out the duties of the special prosecuting attorney.

Sec. 2. The special prosecuting attorney shall do the following:

- (1) Prosecute crimes under IC 35-45-5 and initiate, supervise, and coordinate investigations relating to a violation under IC 35-45-5.
- (2) Recommend policies and carry out other activities designed to deter, detect, and eradicate illegal gambling.
- (3) Adopt rules under IC 4-22-2 to implement this chapter.
- (4) Recommend legislation to the commission and general assembly to strengthen laws relating to gambling.
- (5) Annually submit a report to the legislative council detailing the special prosecuting attorney's activities. The report must be in an electronic format under IC 5-14-6.
- (6) Prepare interpretive and educational materials and programs.

Sec. 3. (a) Except as provided in subsections (b) and (c), the special prosecuting attorney has concurrent jurisdiction with the prosecuting attorney of a county in the investigation and prosecution of a crime under IC 35-45-5.

(b) If the special prosecuting attorney discovers evidence of the commission of a crime under IC 35-45-5, the special prosecuting

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attorney may certify to the prosecuting attorney of the county in which the crime appears to have been committed the following information:

- (1) The identity of any person who may be involved in the criminal activity.
- (2) The specific criminal statute that the special prosecuting attorney believes has been violated.

In addition, the special prosecuting attorney shall share with the county prosecuting attorney any relevant evidence. If the county prosecuting attorney decides to prosecute the crime described in the information certified to the county prosecuting attorney, or any other related crimes, the special prosecuting attorney shall cooperate with the county prosecuting attorney in the investigation and prosecution of the case.

(c) If:

- (1) the county prosecuting attorney to whom the special prosecuting attorney issues a certification under subsection (b):

- (A) is disqualified from investigating or bringing a criminal prosecution in the matter addressed in the certification;
- (B) does not file an information or seek an indictment not later than ninety (90) days after the date on which the special prosecuting attorney certified the information to the county prosecuting attorney; or
- (C) refers the case back to the special prosecuting attorney; and

(2) the special prosecuting attorney finds that there is probable cause to believe that a person identified in the certification under subsection (b)(1) has violated a criminal statute identified in the certification under subsection (b)(2); the special prosecuting attorney may prosecute the case.

Sec. 4. To carry out the duties described in sections 2 and 3 of this chapter, the special prosecuting attorney has the following powers:

- (1) As part of an investigation or prosecution, the special prosecuting attorney may:
 - (A) administer oaths;
 - (B) examine witnesses under oath;
 - (C) issue subpoenas and subpoenas duces tecum; and
 - (D) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or

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any other documents maintained by any person.

(2) The special prosecuting attorney may apply to a circuit or superior court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the special prosecuting attorney or otherwise disobeys a subpoena or subpoena duces tecum issued by the special prosecuting attorney.

(3) In matters within the authority of the special prosecuting attorney under this chapter, the special prosecuting attorney has the same powers as the prosecuting attorney of a county. However, the special prosecuting attorney may exercise these powers only in the investigation and prosecution of an act that is a crime under IC 35-45-5.

Chapter 3. Appointment and Eligibility

Sec. 1. The commission shall appoint the special prosecuting attorney. The special prosecuting attorney serves at the pleasure of the commission.

Sec. 2. The special prosecuting attorney and any deputy special prosecuting attorneys must be attorneys licensed to practice law in Indiana.

Sec. 3. The special prosecuting attorney is entitled to receive compensation set by the commission and approved by the budget agency. However, the special prosecuting attorney's compensation may not exceed the minimum compensation paid to a full-time prosecuting attorney under IC 33-39-6.

Sec. 4. Subject to the approval of the budget agency, the special prosecuting attorney shall fix the salary of all other employees of the office of the special prosecuting attorney.

Chapter 4. State Gambling Enforcement Fund

Sec. 1. The state gambling enforcement fund is established.

Sec. 2. The fund consists of:

- (1) money transferred to the fund under IC 4-30-17-3.5; and
- (2) appropriations from the general assembly.

Sec. 3. The commission shall administer the fund.

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. Money in the fund must be used by the commission to pay the operating expenses of the office.

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SECTION 44. IC 6-2.5-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The department may, for good cause, revoke a certificate issued under section 1, 3, or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection.

(b) The department shall revoke a certificate issued under section 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

- (1) file the returns required by IC 6-2.5-6-1; or
- (2) report the collection of any state gross retail or use tax on the returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

- (1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and
- (2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

- (1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and
- (2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate holder's failure to comply with IC 6-9.

(e) The department shall revoke or suspend a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

- (1) the certificate holder owes taxes, penalties, fines, interest, or costs due under IC 6-1.1 that remain unpaid at least sixty (60) days after the due date under IC 6-1.1; and
- (2) the treasurer of the county to which the taxes are due requests the department to revoke or suspend the certificate.

(f) The department shall reinstate a certificate suspended under subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid or the county treasurer requests the department to reinstate the certificate because an agreement for the payment of taxes and any penalties due under IC 6-1.1 has been reached to the satisfaction of the county treasurer.

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(g) The department shall revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if the department finds in a public hearing by a preponderance of the evidence that the certificate holder has violated IC 35-45-5-3 or IC 35-45-5-4.

SECTION 45. IC 7.1-3-18.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

(b) Before enforcing the imposition of a civil penalty or suspending **or revoking** a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension to the certificate holder.

(c) **Subject to subsection (b), the commission may revoke the certificate of a person if the commission finds by a preponderance of the evidence that the person has violated IC 35-45-5-3 or IC 35-45-5-4.**

SECTION 46. IC 7.1-3-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. ~~Fine, Suspension, and Revocation. General:~~ The commission may fine, suspend, or revoke the permit, or fine and suspend or revoke, the permit of a permittee for the violation of a provision of this title, ~~or~~ of a rule or regulation of the commission, **or of IC 35-45-5-3 or IC 35-45-5-4.** The commission may fine a permittee for each day the violation continues if the violation is of a continuing nature. **A finding that a permittee has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence.**

SECTION 45. IC 7.1-3-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. ~~Revocation of Permits. General:~~ The commission shall revoke a permit of any type only on account of the violation of, or refusal to comply with, a provision of this title or of a rule or regulation of the commission, **or on account of a violation of IC 35-45-5-3 or IC 35-45-5-4. A finding that a permittee has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence.**

SECTION 48. IC 33-39-1-6, AS AMENDED BY P.L.222-2005, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) **This section does not apply to the special prosecuting attorney for gambling enforcement appointed to the office established by IC 4-33.5-2-1.**

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~~(a)~~ **(b)** Special prosecutors may be appointed under this section or in accordance with IC 4-2-7-7.

~~(b)~~ **(c)** A circuit or superior court judge:

(1) shall appoint a special prosecutor if:

- (A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition requesting the appointment of a special prosecutor; and
- (B) the prosecuting attorney agrees that a special prosecutor is needed;

(2) may appoint a special prosecutor if:

- (A) a person files a verified petition requesting the appointment of a special prosecutor; and
- (B) the court, after:
 - (i) notice is given to the prosecuting attorney; and
 - (ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard; finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;

(3) may appoint a special prosecutor if:

- (A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and
- (B) the court finds that the appointment is necessary to avoid the appearance of impropriety; and

(4) may appoint a special prosecutor if:

- (A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and
- (B) the court finds that the appointment of a special prosecutor is in the best interests of justice.

~~(c)~~ **(d)** Each person appointed to serve as a special prosecutor:

(1) must consent to the appointment; and

(2) must be:

- (A) the prosecuting attorney or a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or
- (B) except as provided in subsection ~~(d)~~, **(e)**, a senior prosecuting attorney.

~~(d)~~ **(e)** A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court

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finds that an appointment under this subsection would not create the appearance of impropriety.

~~(e)~~ **(f)** A person appointed to serve as a special prosecutor has the same powers as the prosecuting attorney of the county. However, the appointing judge shall limit scope of the special prosecutor's duties to include only the investigation or prosecution of a particular case or particular grand jury investigation.

~~(f)~~ **(g)** The court shall establish the length of the special prosecutor's term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-41-1-24), the court shall order the special prosecutor to file a report of the investigation with the court at the conclusion of the investigation. The report is a public record.

~~(g)~~ **(h)** If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

- (1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and
- (2) may not exceed:
 - (A) a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit; and
 - (B) travel expenses and reasonable accommodation expenses actually incurred.

~~(h)~~ **(i)** If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

- (1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and
- (2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

~~(i)~~ **(j)** The combination of:

- (1) the compensation paid to a senior prosecuting attorney under this chapter; and
- (2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.

~~(j)~~ **(k)** A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one hundred (100) calendar days in total during a calendar year.

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SECTION 49. IC 35-45-5-1, AS AMENDED BY P.L.70-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a) ~~As used in~~ The definitions in this section apply throughout this chapter.**

(b) "Electronic gaming device" means any electromechanical device, electrical device, or machine that satisfies the following requirements:

(1) The device is available to play or operate upon payment of consideration.

(2) The device:

(A) by reason of the skill of the operator;

(B) by application of the element of chance; or

(C) due to both (A) and (B);

may deliver or entitle the person playing or operating the device to receive premiums, merchandise, tokens, redeemable game credits, or anything of value other than unredeemable free games regardless of whether the payoff is made automatically from the device or in any other manner.

(c) "Gain" means the direct realization of winnings.

(d) "Gambling" means risking money or other property for gain, contingent in whole or in part upon lot, chance, or the operation of a gambling device; but it does not include participating in:

(1) bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries; or

(2) bona fide business transactions that are valid under the law of contracts.

(e) "Gambling device" means:

(1) a mechanism by the operation of which a right to money or other property may be credited, in return for consideration, as the result of the operation of an element of chance;

(2) a mechanism that, when operated for a consideration, does not return the same value or property for the same consideration upon each operation;

(3) a mechanism, furniture, fixture, construction, or installation designed primarily for use in connection with professional gambling;

(4) a policy ticket or wheel; or

(5) a subassembly or essential part designed or intended for use in connection with such a device, mechanism, furniture, fixture, construction, or installation.

In the application of this definition, an immediate and unrecorded right

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to replay mechanically conferred on players of pinball machines and similar amusement devices is presumed to be without value.

(f) "Gambling information" means:

- (1) a communication with respect to a wager made in the course of professional gambling; or
- (2) information intended to be used for professional gambling.

(g) "Interactive computer service" means an Internet service, an information service, a system, or an access software provider that provides or enables computer access to a computer served by multiple users. The term includes the following:

- (1) A service or system that provides access or is an intermediary to the Internet.
- (2) A system operated or services offered by a library, school, state educational institution (as defined in IC 20-12-0.5-1), or private college or university.

(h) "Operator" means a person who owns, maintains, or operates an Internet site that is used for interactive gambling.

(i) "Profit" means a realized or unrealized benefit (other than a gain) and includes benefits from proprietorship or management and unequal advantage in a series of transactions.

(j) For purposes of this chapter:

- (1) a card game; or**
- (2) an electronic version of a card game;**

is a game of chance and may not be considered a bona fide contest of skill.

SECTION 50. IC 35-45-5-3, AS AMENDED BY P.L.70-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A person who knowingly or intentionally:

- (1) engages in pool-selling;
- (2) engages in bookmaking;
- (3) maintains, in a place accessible to the public:
 - (A)** slot machines;
 - (B)** one-ball machines or variants thereof;
 - (C) an electronic gaming device;**
 - (D)** pinball machines that award anything other than an immediate and unrecorded right of replay;
 - (E)** roulette wheels;
 - (F)** dice tables; or
 - (G)** money or merchandise pushcards, punchboards, jars, or spindles;
- (4) conducts lotteries or policy or numbers games or sells chances therein;

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(5) conducts any banking or percentage games played with cards, dice, or counters, or accepts any fixed share of the stakes therein;
or

(6) accepts, or offers to accept, for profit, money, or other property risked in gambling;

commits professional gambling, a Class D felony. **However, the offense is a Class C felony if the person has a prior unrelated conviction under this subsection.**

(b) An operator who knowingly or intentionally uses the Internet to:

(1) engage in pool-selling:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana;

(2) engage in bookmaking:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana;

(3) maintain, on an Internet site accessible to residents of Indiana, the equivalent of:

(A) slot machines;

(B) one-ball machines or variants of one-ball machines;

(C) pinball machines that award anything other than an immediate and unrecorded right of replay;

(D) roulette wheels;

(E) dice tables; or

(F) money or merchandise pushcards, punchboards, jars, or spindles;

(4) conduct lotteries or policy or numbers games or sell chances in lotteries or policy or numbers games:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana;

(5) conduct any banking or percentage games played with the computer equivalent of cards, dice, or counters, or accept any fixed share of the stakes in those games:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana; or

(6) accept, or offer to accept, for profit, money or other property risked in gambling:

(A) in Indiana; or

(B) in a transaction directly involving a person located in

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Indiana;

commits professional gambling over the Internet, a Class D felony.

SECTION 51. IC 35-45-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided in subsection (b), a person who:

(1) knowingly or intentionally owns, manufactures, possesses, buys, sells, rents, leases, repairs, or transports a gambling device, or offers or solicits an interest in a gambling device;

(2) before a race, game, contest, or event on which gambling may be conducted, knowingly or intentionally transmits or receives gambling information by any means, or knowingly or intentionally installs or maintains equipment for the transmission or receipt of gambling information; or

(3) having control over the use of a place, knowingly or intentionally permits another person to use the place for professional gambling;

commits promoting professional gambling, a Class D felony. **However, the offense is a Class C felony if the person has a prior unrelated conviction under this section.**

(b) Subsection (a)(1) does not apply to a boat manufacturer who:

(1) transports or possesses a gambling device solely for the purpose of installing that device in a boat that is to be sold and transported to a buyer; and

(2) does not display the gambling device to the general public or make the device available for use in Indiana.

(c) When a public utility is notified by a law enforcement agency acting within its jurisdiction that any service, facility, or equipment furnished by it is being used or will be used to violate this section, it shall discontinue or refuse to furnish that service, facility, or equipment, and no damages, penalty, or forfeiture, civil or criminal, may be found against a public utility for an act done in compliance with such a notice. This subsection does not prejudice the right of a person affected by it to secure an appropriate determination, as otherwise provided by law, that the service, facility, or equipment should not be discontinued or refused, or should be restored."

Page 19, after line 1, begin a new paragraph and insert:

"SECTION 52. [EFFECTIVE UPON PASSAGE] **(a) The amendment of IC 35-45-5-1 by this act is not intended to result in any substantive change in the law.**

(b) This act does not affect any:

(1) violations committed; or

(2) proceedings begun;



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before the effective date of this act. Those offenses and proceedings continue and shall be imposed and enforced under prior law as if this act had not been enacted.

SECTION 53. [EFFECTIVE JULY 1, 2007] IC 35-45-5-3 and IC 35-45-5-4, both as amended by this act, apply only to crimes committed after June 30, 2007.

SECTION 54. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1510 as reprinted February 20, 2007.)

LONG, Chairperson

Committee Vote: Yeas 12, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1510 be amended to read as follows:

Page 29, between lines 29 and 30, begin a new line blocked left and insert:

"The term does not include a device played for amusement that rewards a player exclusively with a toy, a novelty, or a ticket or coupon redeemable for a toy or a novelty that has a wholesale value of not more than the lesser of ten (10) times the amount charged to play the amusement device one (1) time or five dollars (\$5)."

(Reference is to EHB 1510 as printed April 3, 2007.)

MERRITT

SENATE MOTION

Madam President: I move that Engrossed House Bill 1510 be amended to read as follows:

Page 22, line 35, after "IC 35-45-5" insert "**(gambling) and under IC 35-45-6-2 (corrupt business influence), if the racketeering activity involves promoting professional gambling (IC 35-45-5-4),"**

Page 22, line 36, delete "a violation" and insert "**crimes"**.

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Page 22, line 37, after "IC 35-45-5" insert **"(gambling) and under IC 35-45-6-2 (corrupt business influence), if the racketeering activity involves promoting professional gambling (IC 35-45-5-4)".**

Page 23, line 9, after "IC 35-45-5" insert **"(gambling) and under IC 35-45-6-2 (corrupt business influence), if the racketeering activity involves promoting professional gambling (IC 35-45-5-4)".**

Page 23, line 11, after "IC 35-45-5" delete "," and insert **"(gambling), or under IC 35-45-6-2 (corrupt business influence), and the racketeering activity involves promoting professional gambling (IC 35-45-5-4),".**

Page 24, line 24, after "IC 35-45-5" insert **"(gambling) or under IC 35-45-6-2 (corrupt business influence), if the racketeering activity involves promoting professional gambling (IC 35-45-5-4)".**

(Reference is to EHB 1510 as printed April 3, 2007.)

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